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OSD(HA), TMA eBPS

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HIPAA PROGRAM OFFICE

Skyline 5, Suite 810
5111 Leesburg Pike
Falls Church, VA
22041-3206
Ph: 703-681-5611
Fax: 703-681-8845

TMA HIPAA Website:
[www.tricare.osd.mil/
hipaa](http://www.tricare.osd.mil/hipaa)

E-Mail:
hipaamail@tma.osd.mil



HIPAA - Privacy - Authorization

TRICARE Management Activity, Electronic Business Policy & Standards

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

Background

There are two prescribed uses for an authorization under HIPAA Privacy. In order to use or disclose patient health information for purposes beyond the treatment, payment and health care operations (TPO) purposes described in the Notice of Privacy Practices (NoPP), written authorization from the patient must be obtained. Individuals have the right to use an authorization to request the restriction of the use or disclosure of their protected health information (PHI).

General Provisions

- ◆ Requests for restriction may be denied by the covered entity
- ◆ Restrictions should be reviewed periodically by the HIPAA Privacy Officer or Privacy Board to ensure a military treatment facility can continue to meet the requirements imposed
- ◆ Most uses or disclosures of psychotherapy notes require authorization.
- ◆ Restrictions requested by or on file for new enrollees or newly reporting personnel must be reviewed by the HIPAA Privacy Officer/Privacy Board to determine if the new treatment site can adhere to those provisions

Authorizations Requested by Patient

Authorizations **requested by the patient** must be in plain language and contain the following core elements:

- ◆ Description of information to be used or disclosed
- ◆ Name of person(s) authorized to make the request
- ◆ Name of person(s) to whom the requested use or disclosure may be made
- ◆ An expiration date or an expiration event
- ◆ Statement of the patient's right to revoke authorization, exceptions to this right, and how the patient may revoke the authorization
- ◆ Statements that information used or disclosed may be subject to re-disclosure by the recipient, and thereby no longer protected under HIPAA
- ◆ Signature of the patient and date
- ◆ If signed by patient's representative, a description of the representative's authority is required



Authorizations Requested by MTF

If the authorization is **requested by the covered entity** for its own use, the authorization must include the following in addition to the core elements above

- ♦ A statement that the covered entity will not condition treatment, payment, enrollment or eligibility upon authorization
- ♦ A description of each purpose of the requested use or disclosure
- ♦ The patient may inspect or copy the PHI to be used or disclosed
- ♦ The patient may refuse to sign the authorization
- ♦ The use or disclosure will result in payment to the covered entity by a third party, if applicable

Authorizations for Research Beyond NoPP

- ♦ If the authorization is for **research purposes not already addressed in the NoPP**, the authorization must include the following in addition to the core elements previously mentioned
- ♦ A description of each purpose of the requested use or disclosure related to the research
- ♦ A statement that the covered entity will not condition treatment, payment, enrollment or eligibility upon authorization to allow use of their PHI in the research activities
- ♦ A statement that the patient may refuse to sign the authorization as it applies to research

Patient Revocation of Authorization

An individual may revoke an authorization at any time, so long as the revocation is in writing. Unless the covered entity has taken some action in reliance upon the authorization, the authorization is effectively revoked. For example, a covered entity would not be required to retrieve information that it disclosed in accordance with the authorization once that authorization is revoked.

Conflicting Consents and Authorizations

If conflicting consents or authorizations are on file, the most restrictive document controls. Additionally, an MTF may continue to use or disclose PHI with the patient's consent or authorization prior to the HIPAA Privacy compliance date of April 14, 2003, even though the consent does not strictly comply with the requirements for consent or authorization. The MTF must not make any use or disclosure that is expressly excluded from the consent or authorization.